June 1, 2006

WASHINGTON STATE

OFFICE OF THE ATTORNEY GENERAL

FISCAL YEARS 2007-2011 STRATEGIC PLAN

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#### MISSION

As an independent constitutional office, and legal counsel to state government, we serve the citizens of Washington with the highest standards of excellence, ethics and effectiveness.

#### VISION

For the Office of the Attorney General to be recognized as the best public law office in the United States.

#### VALUES

All staff in the Washington Office of the Attorney General are guided by the following core values—

"THRICE":
Transparency
Honesty
Respect
Innovation
Competition
<u>Ethics</u>
= Excellence+Effectiveness

**Transparency:** The processes by which we arrive at decisions should be transparent to AGO staff and the public.

**Honesty:** We should be honest with each other, the press, public, and opposing counsel.

**Respect:** We should maintain respect for our staff and the diversity among them.

**Innovation:** We encourage innovation in office practices and in providing counsel to our clients.

**Competition:** We believe in competition in the best sense of that word – looking for the competitive edge in litigation, being prepared to compete for and retain the best lawyers and staff, training to stay competitive in emerging technologies, and investing in infrastructure to stay competitive.

**Ethics:** In all our dealings with the public, the courts, opposing counsel, and each other, we maintain the highest standards of ethics.

#### LISTING OF STATUTORY AUTHORITY REFERENCE

The Washington Constitution in Article 3, Section 1 names the Attorney General as an executive department and in Section 21, the general duties of the Attorney General are enumerated. The Attorney General's statutory authority derives from the Revised Code of Washington (RCW) 43.10 and many other specific statutes.

### Appraisal of External Environment

#### INTRODUCTION

Approximately 75% of the budget for the Attorney General's Office (AGO) consists of appropriations to the legal services revolving fund for providing legal services to the multitude of state agencies. Another 15% of the AGO budget is spend in defense of tort actions brought against state officials and agencies. Therefore, much of the "external environment" relevant to the preparation of the AGO five-year strategic plan is a function of the long range plans and work of the client agencies. In substantial part, such agency plans are works in progress, so this review, also in substantial part, must be tentative and will evolve as a function of the long range plans of our client agencies.

Beyond these services to client agencies, the AGO fulfills a number of statutory responsibilities. These include protecting the public through our efforts in enforcing the Consumer Protection Act (RCW 19.86) and educating consumers to the perils of a high-tech marketplace; conducting criminal investigations and prosecutions (when requested by local prosecuting attorneys or the Governor); commencing actions to civilly commit sexually violent predators (SVPs) when requested by local prosecuting attorneys; recovering funds for the public in proceedings involving Medicaid fraud; protecting ratepayer interests by the Office of Public Counsel in front of the Utilities and Transportation Commission; and serving as "Counsel for the Environment" in proceedings to site major energy facilities. Approximately 10% of the total budget for the AGO is devoted to these statutory and other functions unrelated to direct service to client agencies and defense of tort actions.

Many external factors affect how the AGO performs these responsibilities and resources are best managed, as well as the extent to which the agency may need additional, or fewer, resources in the future. Those external factors include:

- Economic forces
- Changes in demographics of the population
- Changes in the practice of law
- Changes in the market for attorneys and other legal professional staff
- · Demand for government accountability
- Efforts to manage risk and potential tort liability
- Trends in construction of state highways and other infrastructure
- Evolution of technology and its risks to consumers
- Need for enhanced emergency preparedness
- Evolving applications of federalism

In addition to these factors, there are some forces that relate to specific client agencies, or groups of agencies, which will be discussed separately.

## GENERAL FACTORS IN THE EXTERNAL ENVIRONMENT

#### THE ECONOMY

The health of the economy affects AGO workload in conflicting ways. For example, when the economy is booming, we observe the following:

- More industry consolidation and mergers that lead to more work by the Antitrust Division;
- More construction of highways and other projects, resulting in more condemnation actions, more bond issues, and more construction contracts for the Transportation and Public Construction Division, as well as for our attorneys advising agencies with proprietary functions;
- More public-private partnership economic development projects, requiring preparation and review of transactional documents through those agencies that fund such projects;
- Economic activity in the private sector that involves more permitting and other regulatory oversight by client agencies with concomitant increases in demands for legal services;
- Fewer bankruptcies, thereby lessening load on collections work;
- Fewer workers' compensation cases; and
- Lower enrollments in at least some community and technical colleges, leading to more personnel and budget issues.

On the other hand, when there is a downturn in the economy, we observe the following:

- Increased efforts by businesses to minimize expenses lead to more contests over taxes with the Department of Revenue (which is compounded by the fact that historically in such times the Department increases its auditing efforts, thereby leading to more cases);
- Increases in the number of bankruptcies, business realignments, or failures of public-private economic development projects, requiring contract-related negotiations or litigation;
- If there is a real estate slow down, there are often more credit issues and home buying scams that target people who owe more than their homes are worth;
- More personnel actions as agency budgets decrease, leading to lower staff morale and the need to cut staff;
- Increases in employment security appeals;
- More child abuse and neglect cases
- More license revocations because of DUI charges;
- More utility rate cases, as utilities' cost of capital can increase; companies may cut costs, leading to more quality of service issues; and
- Because of an increased crime rate, there is more demand for prosecutions and investigations.

In sum, changes in the economy will have differing impacts on AGO work.

For the purposes of this five-year plan, we assume continued modest, but steady economic growth, though perhaps not at recent levels. KPMG reports that United States Gross Domestic Product growth is predicted to slow from 3.5% in 2005 to 2.8% in 2006, to 2.5% in 2007. Beyond that it is harder to predict.

As a result, in general for purposes of this plan at this point, it is not expected that the economy, by itself, will lead to significant changes either in the overall quantity or types of legal work or in the current allocation of work.

#### DEMOGRAPHICS

The latest demographic data available online from the Office of Financial Management is from June 2005. At that time, OFM reported that Washington's population had increased by an estimated 88,600 people during the previous year (1.4%), a more "robust" increase than in recent years. Assuming that increased population increases pressures for government services, it can be expected that there will be increased demand for legal services as well.

OFM data also show that there has been a dramatic increase in senior population. In 1990 there were 571,405 people aged 65 or above; in 2005, there were 711,810.<sup>2</sup> Given that senior citizens are often the most vulnerable to consumer scams, this could mean increased pressure on the Consumer Protection Division. Also, as the population ages, there are more instances of exploitation and mistreatment of vulnerable adults and increased need for adult family homes, resulting in increased demand for services by those offices representing the Department of Social and Health Services.

#### CHANGES IN PRACTICE OF LAW

The practice of law is evolving rapidly. The days of attorneys spending hours in the law library and then dictating briefs and memos to a legal assistant are gone. Most attorneys, particularly those who are recent graduates, are able to do legal research and substantial preparation of rough drafts of documents from their desktops. The role of legal assistants has evolved accordingly. Other major changes include:

- Increased use of electronic filing and service by state and federal courts and administrative agencies;
- Use of electronic mail in lieu of written correspondence for communications among parties to a dispute and the courts;
- Availability of video conferencing in lieu of travel for many meetings and even hearings;
- Use of technology in the courtroom for making legal arguments and displaying evidence; and
- Electronic library resources that are more easily accessible.

These changes can make the practice of law easier and more efficient. However, to take advantage of these efficiencies, the AGO must evaluate available technologies and make the best use of the technologies that are selected. These choices directly affect the allocation of scarce budget dollars to equipment, software, and appropriate training.

While technology has made the practice of law easier in some ways, in other ways it has made it more difficult. With the vast bulk of records now created and preserved in electronic form, responding to requests for discovery of state records (or responding to public records requests) has become considerably more complex and more risky. Therefore, issues of records management, for both the AGO and its clients, are significant in long-term workload management for the AGO.

<sup>&</sup>lt;sup>1</sup> OFM Press Release, January 28, 2005.

<sup>&</sup>lt;sup>2</sup> See OFM website: http://www.ofm.wa.gov/databook/default.asp#population

One other factor in the practice of law may be significant. For sometime there has been a trend of more multi-state efforts by state Attorneys General in consumer protection and antitrust cases. This trend continues and has expanded to other areas as well, such as control of methamphetamines. Accordingly, in order to tap into the economies of multi-state efforts, there are costs associated with travel and coordination.

#### MARKET FOR ATTORNEY AND PROFESSIONAL SUPPORT STAFF

An improving economy increases demand for attorneys and other legal professionals in private sector. A March 2005 Law & Politics survey of Washington's 50 largest private law firms showed starting salaries for associate attorneys (in fall 2004) of as much as \$110,000 per year. The starting salary for a new assistant attorney general in fall 2005 was \$46,440. That also will be the starting salary for a new assistant attorney general starting in fall 2006. Anecdotally, the AGO is losing attorneys to much higher paying positions in the private and public sectors. Recently, an attorney left the AGO to accept a position in the Internal Revenue Service in Seattle that paid 80% more than the attorney's salary as an AAG. In the last two years, the Antitrust Division lost two attorneys to federal agencies for 30% salary increases. In addition, several trial specialists have been lost to local government attorneys offices for increases in the 15-20% range. These retention difficulties are compounded by difficulties in recruiting experienced attorneys for less money than they can command elsewhere.

In October 2005, the AGO received the results of a salary survey done by Owen-Pottier, Human Resources Consultants. The study compared AAG salaries at various levels with salaries of attorneys performing similar work in 22 other public law offices in the state and concluded that, on average, AGO attorneys are paid about 15% less than their public sector counterparts.

The AGO is losing professional staff as well. For example, recently several experienced paralegals took positions in federal agencies that pay much more than does the AGO under the state's current salary schedule. The vacancy rate in Seattle for legal assistants has been relatively high, averaging over 17% since 2001, despite the existence of assignment pay.

These marketplace realities, and the resulting personnel issues, pose a real threat to the Attorney General's Office achieving its goal of being the "best public law firm in the country." Accordingly, much of the strategic plan for the AGO focuses on finding solutions to these issues.

#### DEMAND FOR GOVERNMENT ACCOUNTABILITY

One recent phenomenon in the external environment impacting workload is the increased demand for government accountability. This is manifested in several ways:

• Public records requests. All agencies report more requests for public records. The AGO is no exception. In the last five years, the number of public requests increased from 106 in 2001 to 276 in 2005. This has placed increased burdens on AGO staff, increased demand from agencies for advice on interpretive issues under the Public Records Act, and increased need for training of state and local government officials. Pursuant to 2005 legislation, the AGO was required to adopt "Model Rules" under the Public Records Act and to revise them periodically. At the public forums that led up to the adoption of the Model Rules, the AGO heard from many local governmental officials about the need for training on public disclosure issues.

- **Performance measures.** Governor Gregoire, when Attorney General, instituted the Attorney General Management and Accountability Project (AGMAP) as a means to move toward a better system of performance measures in the AGO. As Governor, she has initiated the Government Management Accountability and Performance (GMAP) project. While the AGO does not believe that performance measurement in state government per se will increase the need for legal services to client agencies, it certainly enhances the need to develop and maintain good data about AGO legal work. That need, in turn, impacts the selection of software, the development of office procedures, and the training provided to staff. It also affects the allocation of staff to particular tasks, sometimes requiring dedication of staff to the AGMAP effort.
- **Performance audits.** Initiative 900 gives the State Auditor authority to conduct performance audits and dedicates 0.01% of sales and use tax revenues to an account for that purpose. It is expected this will result in increased demand for legal services.
- Ethics in government. In recent years, there has been increased expectations of public officials and increased scrutiny of their behavior. The workload of the Executive Ethics Board has increased. For example, in 2001, the Board staff responded to 204 electronic mail inquiries; in 2005, the Board staff responded to 309 such inquiries. In addition, with some clients (such as colleges and universities) taking on more entrepreneurial functions and others (such as the Department of Community, Trade and Economic Development and the Life Sciences Discovery Fund) engaging in economic development activities, the issues have become more complex.
- Customer service. With increased expectations from government, more "customers" (i.e., citizens) seek assistance and information. The challenge is to make functions of government more transparent and to make government information assistance more readily available. For the AGO, this increases demand for more information on such issues as consumer protection on the AGO web site, and a more expeditious process for obtaining and acting on consumer complaints. AGO website content is made up of roughly 70% consumer information. In 2003, there 31,224,941 hits to the AGO website. Hits in 2004 increased to 43,294,881 and in 2005 to 50,291,129. The data for 2006 through April indicate that hits for 2006 will exceed 60 million. In addition to website contacts, the consumer services section of the office continues to handle between 15,000 and 20,000 individual constituent contacts each year. The demand for more and better customer service also manifests itself in the increase in constituent correspondence. In 2002, the AGO responded to 1,325 constituent letters (not including consumer protection complaints or inquiries). In 2005, the AGO responded to 2,255, and the anticipated number for 2006 is over 4,500. This increased demand for thoughtful and helpful responses impacts the workload of many AGO staff, from workers in the mail room to the attorneys or other professional staff who respond to these inquiries.
- Administrative processes. Since the mid-1990s, if not before, there has been significant pressure for "regulatory reform," focusing on both promptness and thoroughness of state administrative procedures. This has been manifested in legislation, litigation, and in recommendations from groups such as the Competitiveness Council.

#### RISK MANAGEMENT AND TORT LIABILITY

Although the ten year average of tort payouts has remained relatively level when adjusted for inflation, judicial decisions continue to expand the tort liability of state agencies and officials.

Accordingly, risk management has received increased focus from the Governor's Office and client agencies. For example, many large agencies, such as the Department of Social and Health Services, are moving to retain full-time risk managers. The University of Washington has undertaken a significant review of all areas of potential exposure, and has initiated programs to address complaints, claims, and grievances internally before they turn into lawsuits.

It is difficult to predict where this will lead the AGO staffing. We hope that it will lead to less tort litigation in the future (or at least a decline in the rate of increase in litigation). In the near term, at least, it will require more attention to the client counseling demands of state agencies and to the identification of pre-claims and claims suitable for early resolution.

#### STATE INFRASTRUCTURE IMPROVEMENTS AND EXPANSION

There will be more construction of highways and other vital infrastructure and facilities in the near future, including the following:

- **Transportation infrastructure.** With the increase in the gas tax in the 2005 session, more highway construction is expected. This is driven by (1) the need for more highways, (2) the need to facilitate trade, given that the State is increasingly viewed as an import port of entry for Pacific Rim goods, and (3) the need to replace aging structures.
- **Higher education facilities.** Also, with continued growth in the demand for post-secondary education, there likely will be continued expansion of our higher education facilities. With such additional capital construction, there likely will be an increased demand for legal services relating to such construction.
- Corrections facilities. The Department of Corrections recently awarded a contract to construct a 1,792 bed expansion at the Coyote Ridge Corrections Center in Franklin County and is expanding four other facilities as well for a total of an additional 1,300 beds. However, even with these expansions, the Department predicts a shortfall of more than 900 beds by 2009.

The AGO will face issues arising from the construction of such major public works, including environmental, land use, land acquisition, contracting, financing, and related litigation. Further, because of the varied locations of the construction, there could be issues of how to best provide staffing for the work. The complexity of this highlights the attorney compensation issues facing the office in that it continues to be difficult to retain attorneys with experience in these areas.

#### TECHNOLOGICAL CHANGE AND THE MARKETPLACE

While technological change can make the practice of law in the AGO easier in some ways (see above), it can also make fulfilling some of the AGO mission more difficult. It seems axiomatic that criminals and fraudsters are the first to use and exploit new technologies. As a result, the Consumer Protection Division, as well as other divisions, must keep pace. The Consumer Protection Division will work with

the Governor's Office and the State Patrol to continue the work resulting from the Attorney General's Identity Theft Summit held November 2, 2005. The Division will also undertake initiatives like the new cyber safety campaign in conjunction with the AARP, the Federal Trade Commission, and Microsoft that is aimed initially at senior citizens but will later be adapted for other population groups.

Technological change also is affecting the work of the AGO in a variety of other contexts, including:

- Privacy issues in health care, involving application of the State's Health Care Information Act, RCW 70.02, and the Health Information Portability and Accountability Act of 1996 (HIPAA);
- Workplace injuries related to use of computers;
- Misuse of computers and internet in the workplace by state employees;
- Intellectual property; and
- Changes in the regulatory environment for telecommunications companies.

#### EMERGENCY PREPAREDNESS

After September 11 and Hurricane Katrina, and with the highly publicized specter of a pandemic flu, there is increased emphasis on emergency preparedness on the part of all state agencies, including the AGO. As a part of the state effort to plan for a pandemic flu, a large group of assistant attorneys general and other staff in the AGO brainstormed four pages of legal issues that would be relevant in the event of such a pandemic and that should be researched in advance.

Though many state agencies have received substantially increased state and federal funding for emergency planning and preparation, the additional allocation of such resources to the AGO has been minimal. There is a substantial need for increased legal resources to support emergency preparedness efforts of other state agencies as well as to develop plans for the internal operations of the AGO, including developing sufficient system redundancies and providing for the safety of AGO staff and facilities in the event of a catastrophic event.

#### FEDERALISM

In recent years, there appears to be an increase of federal Congressional or administrative action that is designed to have a preemptive impact on state laws. For example:

- Federal regulation of methamphetamine precursor chemicals.
- Assertions by the Comptroller of the Currency of preemption over regulation of state-chartered operating subsidiaries of national banks.
- Federal legislation on "spam" preempted a number of state's statutes (though not Washington's).
- Federal legislative efforts to preempt state authority over toxic substances.
- Congress has been attempting to preempt state privacy laws with security freeze and security breach legislation.
- Congress is currently considering bills that would pre-empt state regulation of food safety, health insurance, and cable television requirements.

Accordingly, the AGO, on behalf of its clients, has been called upon to address these issues and likely will be similarly called on in the future.

### FACTORS SPECIFIC TO CATEGORIES OF CLIENT AGENCIES

In addition to the above general factors impacting the AGO across a variety of its functions, there are some external forces, primarily driven by the client agencies that will impact one or two divisions of the AGO.

#### SOCIAL AND HEALTH SERVICES

Client initiatives that will impact the AGO include:

- The Children's Administration of the Department of Social and Health Services is increasing agency staffing and implementing reforms in conjunction with the Braam settlement involving the State's foster care system;
- Health care providers are litigating over Medicaid reimbursement and other DSHS programs;
- The Departments of Health and Agriculture are preparing for epidemic and pandemic diseases; and
- The Department of Health is expanding enforcement efforts relating to medical professionals.

In addition, the AGO envision an increase in state and local efforts targeting the manufacture, sale, and use of methamphetamines to increase thereby increasing demand on both the Criminal and Social and Health Services Divisions of the AGO.

#### NATURAL RESOURCES AND THE ENVIRONMENT

Client initiatives that will impact the AGO include:

- Increased focus on pollution control efforts relating to Puget Sound and the Columbia River by the Department of Ecology;
- Continued litigation over the Hanford cleanup; and
- Increased attention to pipeline safety at the Utilities and Transportation Commission.

In addition, we envision the following:

- Increasing complexity of tribal issues (both relating to natural resources and in other areas, such as tax, gaming, and in preservation of sites containing tribal artifacts and graves);
- Further litigation under the Endangered Species Act as salmon runs decline;
- As cost of energy increases, and the need for alternate sources of energy increases, more applications for new energy facilities, thereby increasing demands on EFSEC and on the AGO's statutory role as "Counsel for the Environment;" and
- Increased litigation over land use issues, including, perhaps, litigation out of initiatives designed to protect property rights.

#### EMPLOYMENT

With the enactment of the Civil Service Reform Act in 2005, there are increased pressures for advice to clients related to collective bargaining, contracting out, wage and hour disputes, and many other labor issues. These pressures are likely to continue for the near term.

#### EDUCATION (HIGHER EDUCATION AND K-12)

The AGO anticipates additional legal issues relating to:

- Basic education. There have been threats of a legal challenge to the adequacy of state funding for K-12 education. Whether this will happen may depend in part on the level of state funding for schools in the future and the outcome of a current lawsuit related to special education.
- Washington Assessment of Student Learning (WASL). In other states, there has been considerable litigation about use of standardized tests as a requirement for high school graduation. There already is one case in federal court challenging the WASL, and more are expected.
- Entrepreneurial activities at colleges and universities. As colleges and universities are involved in more entrepreneurial activities, the legal issues become more complex.

#### CRIMINAL JUSTICE

The AGO anticipated additional legal issues relating to:

- Sexually violent predator (SVP) litigation. There will be an increase of hearings relating to the commitment and continued commitment of SVPs, as there will be more SVPs coming into the treatment system and further hearings for those already in it.
- Methamphetamine-related crimes. Methamphetamine-related incidents continue to increase dramatically. For example, according to State Patrol data, in 2001 there were 5,152 controlled substances cases involving meth. For 2004, that number increased to 7,716.
- New Sentencing Provisions. The recently passed "determinate plus" sentencing scheme for some sex offenders will result in an increase for legal services from both the Department of Corrections and the Indeterminate Sentence Review Board. There will be an increase in requests for client advice, petitions attacking some of the substantive provisions of the new scheme, and "revocation hearings that require AAG presence.

#### CONCLUSION

There are many factors affecting the quantity and complexity of the work done by the Attorney General's Office. Because the vast bulk of the AGO's work is on behalf of state agency clients, the exact impact of these external factors is substantially a function of the priorities and demands of those clients. Therefore, as the various agencies elaborate on those priorities, the AGO will continue to review and update its planning objectives and strategies.

### APPRAISAL OF INTERNAL CAPACITY AND FINANCIAL HEALTH

#### STAFFING AND ORGANIZATIONAL CAPACITY

While staffing and organizational capacity have been sufficient to accomplish the mission of the agency, the external environment appraisal points to issues that will be facing the AGO in the future. Currently there are 530 attorneys and about 700 other staff that perform the state's legal work. Recent surveys have found that our attorneys are underpaid compared to their peers in other public law offices. As noted in the last year, several very knowledgeable and experienced attorneys left the AGO for greener pastures in private or other public firms. In addition, it is difficult to recruit and retain competent legal support staff. There is high turnover in markets where jobs are plentiful and the pay in the private or public sector is higher. This is a particular problem in King County.

The systems infrastructure is average. The technology system used to manage the legal information was recently sold to a competitor and there is wide speculation that the system will no longer be supported by the new owner. The billing and timekeeping systems and other systems need to be rewritten in a modern language that is more user friendly. In addition, timekeeping and billing should be modules of the legal manager system so that one system handles all management issues. There will be a conversion to the new state payroll system that will be beneficial in the long-term. However, in the short-term, human resources and payroll staff will be stressed. While efforts to improve data availability from the state's accounting system are being made, getting information from the accounting system remains a challenge to agencies.

#### CAPITAL FACILITIES

The agency leases office space throughout the state from private owners and state government. The majority of AGO staff work in Olympia and Seattle. There are large offices in Tacoma and Spokane with smaller, regional offices located in the major cities of the state. During calendar year 2006 about 700 AGO staff will have moved to newer offices in Seattle and Tumwater. The Tumwater offices provides an opportunity to consolidate most of the Olympia area work into a single location and in a new facility the qualifies as a "green" building. As with most organizations of comparable size, there are continuing challenges to keep facilities updated. Lease costs, except in Seattle, continue to escalate and so the lease budget needs to include more money to meet lease expenses.

#### TECHNOLOGY INVESTMENTS

Updating the several systems into modern computer language is a high priority for the next biennium. An emerging issue is the system that manages the law business information. As was stated before, the system was recently purchased and as of this writing, it is unknown if our system will continue to be supported by the new owner. The budget request includes funds to address the rewrite of current systems. It does not include funding for a new case management system.

Data storage and the life cycling of data has been a priority and continues to present opportunities for the AGO. The proliferation of storage options and the reduction in storage costs have required the AGO to make ongoing investments in hardware and software to support the rapid growth of data. Future investments will help with the life cycling of data and the quick and accurate retrieval of documents and records.

Investments in Remote Access Server and the Department of Information Services Division's Citrix server has allowed AGO staff to securely connect with the AGO network. The AGO has a repeatable patch management process to keep our computer network system up to date with the latest security patches. This allows us to keep our network safe and secure while not compromising the integrity of existing systems.

#### REVENUE SOURCES

The underlying presumption in the creation of the Legal Services Revolving Fund (LSRF) is that it will be a self-supporting revolving fund that provides a financial mechanism to apportion the costs of AGO legal services to all clients and their respective funding sources. As such, the fund is not expected to run at a deficit, or to create a profit (positive fund balance). Prudent financial management suggests that a reasonable working capital fund balance be maintained to recognize the fact that expenses occur on a daily basis but revenues are received from monthly billings that lag expenditures by three to six weeks. In addition, there will always be questions and issues to resolve regarding agency billings, and not all clients will provide payments in a timely fashion.

During the 2005-2007 biennium the AGO successfully concentrated efforts on:

- Refining a timekeeping/billing system that consistently produces accurate and timely billings.
- Resolving all outstanding billing issues with client agencies regarding unpaid bills from previous biennia. OFM has provided assistance to accomplish this.
- Establishing and adjusting (when necessary) fair and understandable billing rates that ensure client bills recover actual AGO costs.

It is the goal of the AGO to continue streamlining the budgetary and financial processes that have led to recent successes, (see for example our request for funding for new admin systems upgrade) and maintain positive fund balances in the LSRF in the future.

The important criteria at the moment is that the AGO is providing services, billing for those services, and the agencies are paying their bills. In addition to the LSRF, the AGO is supported from the State General Fund, Anti-trust Revolving Account, New Motor Vehicle Arbitration Account, Tobacco Prevention/Control Account, federal funds, and the Public Safety & Education Account. The Consumer Protection Division is also expected to recover at least \$750,000 each year to support its operation.

## STRATEGIC PLAN GOALS, OBJECTIVES, STRATEGIES3

#### 1.0 PROVIDE EFFICIENT AND EFFECTIVE REPRESENTATION TO OUR CLIENT AGENCIES.

#### 1.1 Develop and Implement new Complex Litigation Division

- 1.1.1. Review need for and make recommendations for possible structural, budget and reporting revisions (2007).
- 1.1.2. Within existing resources, adjust service levels in divisions and increase resources and capacity of the complex litigation division by FY 2007.

# 1.2. Continue to review office structure and practices for possible areas of improvement and efficiency and identify priority areas for improvement.

1.2.1. Review organizational structure and, periodically, make structural revisions as needed. (ongoing)

# 1.3. Refine performance measures to evaluate success and to develop efficiencies and coordinate with client agency performance measures to include GMAP.

- 1.3.1. Conduct periodic electronic client and constituency satisfaction survey and develop baseline data for major agency clients and perhaps other stakeholder groups by FY 2008.
- 1.3.2. Refine office-wide criteria for the strategic plan, Attorney General Management and Accountability Project (AGMAP) and for budget purposes with the Office of Financial Management by FY 2008. Coordinate with GMAP.
- 1.3.3. Implement division-specific performance measures for AGMAP by FY 2008. Further develop, refine measures and develop reporting process.

#### 1.4. Proactively Engage in Risk Management Efforts.

- 1.4.1. Co-sponsor a periodic (at least every two years) "Risk Management Conference" with the Governor and OFM to address loss prevention and risk initiatives.
- 1.4.2. Division chiefs report annually at the Spring Leadership meeting on state agency risk management efforts by FY 2007
- 1.4.3. Establish mandatory training update requirements; Track completion of mandatory training for all staff; report regularly to the Core Leadership Team to ensure compliance; and evaluate training effectiveness.
- 1.4.4. Maintain an effective risk management program within the AGO office.
- 1.4.5. Maintain an early resolution pilot program in employment law and other selected areas by FY 2008.

While not listed in this document, each strategy has been assigned to a member of the Attorney General Core Leadership Team for completion.

#### 1.5. Improve Emergency Preparedness Advice to Client Agencies.

- 1.5.1. Review state emergency preparedness plans for client agencies and clarify role of AGO staff executing those plans by FY 2008.
- 1.5.2. Enhance Attorney resources devoted to emergency preparedness by FY 2008.

#### 1.6. Obtain and Utilize Appropriate Technologies to Improve Client Service.

- 1.6.1. Review use of the Case management System and other office legal software to ensure consistency across division lines and maximize utilization by FY 2009.
- 1.6.2. Improve agency document management by acquiring and implementing Near-Line Archiving System by FY 2008.
- 1.6.3. Increase use of technology to support litigation work by FY 2007.
- 1.6.4. Review options to improve administrative systems such as timekeeping, billing, and leave tracking systems and issue a report and recommendation by FY 2008.
- 1.6.5. Improve agency wide document and records management by acquiring and imple menting and acquiring an Enterprise Content Management System by FY 2010.
- 1.6.6. Enhance AGO staff's ability to work remotely and securely connect to the AGO network through the Internet using AGO equipment by FY 2009.
- 1.6.7. Implement social software that enables the AGO to communicate, collaborate and develop online legal communities by 2011. Perform a comprehensive audit of all Administrative computer systems and determine which ones will be upgraded and which ones will be retired by 2007.
- 1.6.8. Upgrade all Administrative computer systems identified in the audit by 2011.

#### 1.7. Improve Client Agency Relationship – Clarify Roles.

- 1.7.1. Include training on option based advice at mid-level managers meeting by FY 2007.
- 1.7.2. Develop business relationships with clients so they understand and accept AGO costs to provide legal services by FY 2009.
- 1.7.3. Continue to update and clarify lead Attorney role for each client agency by FY 2008. Clarify role of substantive divisions providing lead counsel for client agencies and coordinating on behalf of the client agencies the legal work from other divisions (e.g. Torts and Labor and Personnel, other split clients). Enable lead counsel to have access to relevant litigation information from other divisions and from the case management system.

# 1.8. Review legal business processes and implement necessary changes (how we do business and is it the most effective for clients and staff).

1.8.1. Review current mixture of staff classifications for library and technology services by FY 2009.

- 1.8.2. Review current use of legal professional staff classifications and make report for possible better mix of such staff by FY 2008.
- 1.8.3. Track special AAG costs in AGMAP by FY 2007.
- 1.8.4. Identify need for and formalize special practice groups in selected areas to better serve the clients and the AGO by FY 2009.
- 2.0 PROTECT THE PUBLIC THROUGH THE EXERCISE OF THE INDEPENDENT STATUTORY ROLES OF THE ATTORNEY GENERAL

#### 2.1. Protect the Public from Unfair and Deceptive Trade Practices.

- 2.1.1. After consulting with the Governor's Office and in coordination with the State Patrol, develop proposals to coordinate and protect state, local and corporate data pertaining to personal information to ensure privacy and protect against identity theft, fraud, and predatory behaviors. Include strategies to provide public education concerning risks and safeguards.
- 2.1.2. Enhance public outreach efforts by (a) reviewing and updating existing brochures, evaluating use of website technology, and increasing public presentations and (b) identifying existing public and private networks that can be used to reach the public (e.g., colleges, bank associations, libraries, crime prevention officers, non-profit organizations). Report to CLT by November 2007.
- 2.1.3. Evaluate emerging trends in technologies facilitating fraud, criminal fraud and deceptive practices; adapt litigation, outreach and educational efforts in response. Report annually to CLT, starting in FY 2007.
- 2.1.4. Develop proposal for Consumer Protection Revolving Fund or other alternative financing mechanism to provide more consistent budget for activities. Report to CLT by June, 2007.
- 2.2. Assure that the Homicide Investigation Tracking System (HITS) is operating effectively and efficiently and that it stays current with the needs of the community and the AGO's law enforcement partners.
  - 2.2.1. Rewrite the HITS database and operating system to facilitate more challenging data runs that are easier and quicker by FY 2009.
  - 2.2.2. Explore the need, costs and benefits and, if appropriate, expand the HITS data base to other "signature crimes" including robbery, arson, gang information, and missing persons by FY 2009.
  - 2.2.3. Develop and maintain a training program for all law enforcement to educate them about what HITS is, what it does, and how it can be of benefit them by FY 2008.
  - 2.2.4. Develop and maintain a working relationship with tribal law enforcement agencies by FY 2008.

- 2.2.5. Continue to provide quality assistance to local law enforcement in "cold case" reviews, consultations in open investigations, and direct investigative assistance where applicable by FY 2007.
- 2.2.6. Develop the HITS interface with other compatible crime data and crime intelligence databases including LYNX and RAIN by FY 2008.

# 2.3. Manage the Criminal Litigation Unit to supplement the skill and resources of local prosecutors, thereby assuring that appropriate criminal cases are litigated.

- 2.3.1. Build and maintain the staffing and budget to handle a capital case at the trial level for some of the smaller and less financially capable counties by FY 2008.
- 2.3.2. Build and maintain capacity to handle appellate cases for some of the smaller jurisdictions by FY 2008.
- 2.3.3. Build and maintain capacity to handle "state" originated prosecutions (those that are from state agencies) by FY 2008.

# 2.4. Protect the Medicaid system and those who access it by investigating and prosecuting those claimants or providers who victimize it or the beneficiaries of the system.

- 2.4.1. Acquire and maintain sufficient staff in the Medicaid Fraud Control Unit (MFCU) to assure that it meets the demands on the system as the number of providers and claimants grow with the aging of the population by FY 2008.
- 2.4.2. Develop a program that emphasizes investigation and prosecution of care homes and facilities that house Medicaid claimants by FY 2008.
- 2.4.3. Develop and maintain expertise in the investigation and prosecution of elder abuse and, within available resources, make this expertise available to local agencies by FY 2007.

#### 2.5. Develop further capability in the Sexually Violent Predator Unit

- 2.5.1. Expand staff to enable Unit to (1) respond to referrals for initial civil commitment; (2) respond to requests for Less Restrictive Alternative trials; and (3) keep pace with evolving developments in the law and science relating to civilly committing sexually violent predators by FY 2008.
- 2.5.2. Work with the Department of Corrections, the End of Sentence Review Committee, and the Indeterminate Sentence Review Board to better forecast the number of sexually violent predator referrals to assure that the Unit is properly staffed by FY 2007.
- 2.5.3. Work to develop and maintain a victim and witness program within the Unit by FY 2008.

- 2.6. Protect the interest of residential and small business customers of regulated telecommunications, electric, and natural gas companies in proceedings before the Washington Utilities and Transportation Commission and in other forums.
  - 2.6.1. Evaluate, in conjunction with the Utilities Division and, if possible, representatives of other state agencies, the need for increased staff and possible changes in practice in light of the various changes in utility industries, including the evolution of the telecommunications market (including the recent abundance of mergers and the shift from regulated to unregulated service) and the lessons learned from the Enron experiment in deregulation. Prepare report for the Attorney General by January 2008, with status reports every three months.

#### 2.7. Obtain stable and adequate funding for Counsel for the Environment.

- 2.7.1. Develop a funding proposal to submit to the Governor and Legislature, working with relevant stakeholder groups by FY 2008.
- 3.0 SUPPORT THE STAFF IN AN EFFICICENT, EFFECTIVE, AND DIVERSE WORK ENVIRONMENT.

#### 3.1. Seek and obtain appropriate compensation for all staff

- 3.1.1. Obtain Department of Personnel approval of Performance Pay Program implementation during FY 2007 for general service, WMS, and exempt employees.
- 3.1.2. Once approved, review and refine performance pay program implementation by FY 2009
- 3.1.3. Seek and obtain funding (Catch Up, Keep Up) to implement the attorney salary survey by FY 2008. Support efforts for salary enhancements for professional staff by FY 2008.

#### 3.2. Implement Improvements to Critical Administrative Support Systems.

- 3.2.1. Review and recommend how the billing system should be changed so that it allows best practices for legal services by FY 2008.
- 3.2.2. Review and report billing rates to determine impacts of billing rates on AGO business processes by FY 2009.
- 3.2.3. Evaluate and recommend best business practice improvements- electronic travel, leave tracking, asset management, purchasing system, contracting, and implement audit recommendations by FY 2008.
- 3.2.4. Implement new Human Resource Management System by FY 2007.

#### 3.3. Review, and If Appropriate, Revise and Update Existing, Administrative Policies.

- 3.3.1. Review all AGO policies and update and revise as necessary with procedure and process changes by FY 2010.
- 3.3.2. Consolidate and update legal practices manuals by FY 2008.

## 3.4. Increase Efforts to Recruit and Retain an Effective and Diverse Attorney and Professional Staff Workforce

- 3.4.1. Participate in national minority job fairs annually. Provide annual report on that effort in January.
- 3.4.2. Increase internal communications about agency activities regarding diversity issues.
- 3.4.3. Foster diversity of thought to provide best practice legal services.
- 3.4.4. Explore strategies to recruit and retain qualified professional staff.

#### 3.5. Enhance the Safety and Security of the Workplace.

- 3.5.1. Revise and implement the Office Safety and Security Plan by FY 2007.
- 3.5.2. Review and update the safety and emergency plans for AGO Office locations; and develop safety and emergency plans for new locations by FY 2008.
- 3.5.3. Provide tools (procedures and pleadings) to client agencies and AGO for protecting workers from harassment through the protective orders by FY 2009.

#### 3.6. Succession Planning.

- 3.6.1. Create and maintain a current succession plan for the AGO by FY 2007.
- 3.6.2. Develop and implement training, mentoring, job skill development through specialized assignments, rotational assignments for staff so that they are prepared to succeed in new assignments by FY 2009.
- 4. MAINTAIN AND FOSTER, FOR THE PUBLIC BENEFIT, THE CONSTITUTIONAL AND STATUTORY INDEPENDENCE OF THE ATTORNEY GENERAL.

#### 4.1. Enhance Communication of AGO Role and Activities to the Public.

- 4.1.1. Revamp annual report and convert it to fiscal year basis during FY 2007.
- 4.1.2. Educate public on the independent role of the AGO by FY 2010.
- 4.1.3. Enhance participation of AG staff in specialty bar and other professional organizations by FY 2008.
- 4.1.4. Increase outreach to diverse communities including under represented constituencies by FY 2008; Public Affairs to report on activities annually in the Spring.

## 5. PROMOTE PUBLIC POLICY THAT IS IN THE BEST INTEREST OF THE CITIZENS WE SERVE.

# 5.1. Encourage a Culture of Openness in State and Local Governments with Public Records, While Protecting the Essential Operations of Government.

- 5.1.1. Develop and assist to enact a statute designed to safeguard journalist sources of information by FY 2008.
- 5.1.2. Review model rules under the Public Records Act (with an emphasis on electronic records) pursuant to section 4 of the SSB 1758, chapter 483, laws of 2005 by FY 2008.
- 5.1.3. Develop legislative package and obtain funding to provide public records training assistance to client agencies and local governments on public disclosure issues by FY 2008.

# 5.2. Develop Statewide and Interstate Strategies to Control the Manufacture, Transport, and Sale of Methamphetamine.

- 5.2.1. Obtain permanent funding to assist local prosecutors in the prosecution of cases involving methamphetamines by FY 2008.
- 5.2.2. Lead Northwest precursor committee to address border and traffic measures and develop legislation for introduction in the 2007 session.
- 5.2.3. Increase public awareness of the harmful impacts methamphetamine has on lives and communities throughout Washington.
- 5.2.4. Develop and assist to enact legislation to reduce gang activity and membership by FY 2008.

# 5.3. Develop a Strategy to Seek Legislation Defining Liability Standards for Actions and Inactions of State and Local Governments

- 5.3.1. Develop in conjunction with clients and OFM Risk Management, a targeted legislative package to address court rulings expanding the state's liability, and codify the public duty doctrine by FY 2008.
- 5.3.2. Contingent on enactment of legislation, develop performance measures to assess effectiveness of reducing state liability legislation by FY 2010.

## 5.4. Increase Efforts in Protecting Consumers from Identity Theft and Other Internet Fraud.

- 5.4.1. Implement recommendations of ID theft summit in coordination with Washington State Patrol (i.e. credit freeze legislation, work groups, victim services, education and outreach, criminal penalties to deter ID theft) by FY 2008.
- 5.4.2. Lead the effort to better coordinate ID theft prevention programs, the investigation and prosecution of criminals, and victims assistance in conjunction with state patrol by FY 2008).

### PERFORMANCE ASSESSMENT

Currently, the Attorney General's Office performance measure program is called "AGMAP" (Attorney General Management and Accountability Project). AGMAP was created during the previous administration and tracked measures identified and reported by divisions. Recently, the program underwent drastic changes to create, track and report agency wide measures that reflect the business of the AGO. These agency wide measures are linked to the strategic plan and are being reported at the agency's quarterly leadership meetings. During the next few years, the measures and others will be used to help the leadership know if the AGO legal work is meeting the needs of state agencies.

For purposes of this plan, we are submitting performance measures for each activity identified in the OFM activity inventory. Activities and performance measures are as follows:

PROGRAM	ACTIVITY	PERFORMANCE MEASURE
Administrative Services	NA	NA
Consumer Protection	Enforcement of Consumer Protection Laws	Dollar Amount Recovered per Dollar of General Fund Spent
Consumer Protection	Enforcement of Consumer Protection Laws-Lemon Law	Dollar of Vehicle Compensation Recovered per Dollar of Excise Fee Spent
Anti-Trust	Enforcement of Anti-Trust Laws	Dollar Amount Recovered Each Year
Legal Services	Administrative Activity	Number and Percent of Professional Development Forms and Professional Development Plans Completed
Legal Services	Executive Ethics	Number of Complaints and Average Number of Days to Complete an Investigation of a Complaint.
Legal Services	Civil Litigation-Sexual Violent Predators	Number of SVP Referrals, Cases Files, and Commitments Achieved
Legal Services	Legal Services to State Agencies	Appellate Results and Client Satisfaction Based on Most Recent Survey
Criminal Litigation	Criminal Investigation/ Prosecution	Criminal Litigation Unit Cases Referred and Percent Charged with Crime
Homicide Investigation Tracking System	Homicide Investigation Tracking System	Number of Requests for Assistance
Medicaid Fraud	Investigation and Prosecution of Medicaid Fraud	State General Fund Recoveries by Fiscal Year
Torts	Torts	Number and Percent of Torts Cases Resolved Through Early Resolution